

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Numbering Resource Optimization)	CC Docket No. 99-200
)	
Implementation of the Local Competition)	CC Docket No. 96-98
Provisions of the Telecommunications)	
Act of 1996)	
)	
Telephone Number Portability)	CC Docket No. 95-116
_____)	

COMMENTS OF THE UNITED STATES TELECOM ASSOCIATION

The United States Telecom Association (“USTA”),¹ through the undersigned and pursuant to Federal Communications Commission (FCC) Rules 1.415 and 1.419,² hereby submits its comments in the above-docketed proceeding. The issues presented in the *Further Notices*³ are important for all carriers potentially affected by the FCC’s rules concerning local number portability (LNP) and thousands-block number pooling (Pooling), whether they operate inside or outside of one of the 100 largest Metropolitan Statistical Areas (MSAs). Under the circumstances, it was both appropriate and necessary for the FCC to reconsider its decision in the

¹ USTA is the Nation’s oldest trade organization for the local exchange carrier industry. USTA represents over 670 carrier members that provide a full array of voice, data and video services over wireline and wireless networks. USTA members support the concept of universal service, and its carrier members are leaders in the provision of advanced telecommunications services to American and international markets.

² 47 C.F.R. §§ 1.415 and 1.419.

³ *Numbering Resource Optimization; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; Telephone Number Portability*, CC Docket No. 99-200; CC Docket No. 96-98; and CC Docket No. 95-116, FCC 02-73, Third Order on Reconsideration in CC Docket No. 99-200, Third Further Notice of Proposed Rulemaking in CC Docket No. 99-200, and Second Further Notice of Proposed Rulemaking in CC Docket No. 95-116 (rel. Mar. 14, 2002) (*Third Reconsideration Order* and *Further Notices*).

Third Report and Order.⁴ Substantial confusion was created by the release of the *Third Report and Order*, as well as concerns that the FCC had significantly changed its rules without providing affected carriers an opportunity to comment on the changes. The *Third Reconsideration Order* and the *Further Notices* offer carriers the opportunity to comment on the important issues presented by the *Further Notices* concerning LNP and Pooling implementation. The FCC should make no changes at this time to its current LNP and Pooling implementation requirements.

SUMMARY

Consistent with its past advocacy on the issue, USTA supports LNP implementation in those exchanges in the top 100 MSAs where more than one local exchange carrier (LEC) provides local exchange service. USTA opposes the expansion of LNP outside of the top 100 MSAs. USTA does not support mandatory LNP implementation for any “rural telephone company,” as that term is defined at 47 U.S.C. § 153 (37), or “two percent carrier”⁵ in the top 100 MSAs where no bona fide request for LNP has been received by such rural carrier or two percent carrier. Additionally, Pooling should not be expanded beyond the requirements of the FCC’s current rule, which only requires Pooling for carriers capable of providing LNP.⁶

⁴ *Numbering Resource Optimization; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; Telephone Number Portability*, CC Docket No. 99-200; CC Docket No. 96-98; CC Docket No. 95-116, *Third Report and Order and Second Order on Reconsideration* in CC Docket No. 96-98 and CC Docket No. 99-200, FCC 01-362 (rel. Dec. 28, 2001) (*Third Report and Order*).

⁵ Defined as a LEC with fewer than two percent of the Nation’s subscriber lines installed in the aggregate nationwide. See 47 U.S.C. § 251(f)(2).

⁶ See 47 C.F.R. § 52.20(b).

DISCUSSION

LNP Deployment

USTA has supported LNP deployment where the existence of competition provides a justification for its deployment and where carriers that are required to deploy LNP are allowed to recover their costs on a competitively neutral basis. USTA does not support mandatory LNP deployment in areas where there is no material demand for it, and deployment would constitute an unnecessary expense.

The FCC appropriately determined in March 1997 that LECs should only be required to deploy LNP, in a particular switch in one of the top 100 MSAs, after a specific request for LNP from another carrier planning to provide service in the area.⁷ The FCC reasoned that it was “reasonable to focus initial efforts in implementing number portability in areas where competing carriers plan to enter.”⁸ The FCC went on to agree with commenting carriers that such an approach would “permit LECs to target their resources where number portability is needed and avoid expenditures in areas within an MSA in which competitors are not currently interested.”⁹ Further, it was acknowledged that “such a procedure will foster efficient deployment, network planning, and testing, reduce costs, and lessen demands on software vendors.”¹⁰ USTA believes that the reasoning applied in the *LNP First Reconsideration Order* is as applicable and compelling today as it was in March 1997. In addition to the persuasive reasons that initially supported the decision, the current downturn in the telecommunications industry provides an additional basis for not requiring carriers to now incur costs for a regulatory mandate that cannot

⁷ Telephone Number Portability, CC Docket No. 95-116, *First Memorandum Opinion and Order on Reconsideration*, 12 FCC Rcd 7236, 7273 (1997) (*LNP First Reconsideration Order*).

⁸ *Id.* at 7272.

⁹ *Id.*

¹⁰ *Id.*

be demonstrated to produce a compelling public benefit. Nothing presented in the *Further Notices* compels the conclusion that deploying LNP absent a bona fide request will serve as an inducement to competitive local entry. A more supportable argument is that the economy's impact on the CLEC industry has decreased the likelihood that mandatory LNP deployment will be an inducement to competitive local entry. There is no evidence of an unmet need for LNP-capability under the current rules.

The FCC previously concluded that “limiting deployment to switches in which a competitor expresses interest in number portability will address the concerns of smaller and rural LECs with end offices within the 100 largest MSAs that they may have to upgrade their networks at significant expense even if no competitors desire portability.”¹¹ This concern has not lessened for rural carriers or two percent carriers. It is wholly speculative that any appreciable competitive entry will result from mandatory LNP deployment by any carrier serving an area within one of the top 100 MSAs that has yet to receive a request for LNP. This is particularly true for rural carriers and two percent carriers whose service areas fall, in whole or in part, within one of the top 100 MSAs. Should the FCC proceed to require LNP deployment by carriers serving the top 100 MSAs absent a bona fide request for LNP, an exemption from the requirement should be extended to rural carriers and two percent carriers.

Thousands-Block Number Pooling

USTA has supported reasonable and cost-effective number conservation measures where provisions exist for sufficient and prompt cost recovery by affected carriers. USTA does not support thousands-block number pooling in areas where it would not produce meaningful benefits. If the FCC requires Pooling capability within the top 100 MSAs regardless of whether

¹¹ *Id.*

other carriers exist with which to Pool, it creates an unnecessary burden and expense for the carrier that is required to be Pooling-capable. Participation in Pooling is certainly not maximized if there is just one carrier. If there is a second carrier, it is more likely than not that the second carrier has made a bona fide request for LNP. It is with the presence of two or more local carriers that a benefit is derived from requiring carriers to be Pooling-capable. Accordingly, the FCC should continue to tie Pooling capability to the implementation of LNP.

If rural carriers and two percent carriers are required to deploy LRN or LNP technology in order to participate in Pooling, it is very unlikely that the expense will be justified. The rural carrier or two percent carrier apt to be the only participant in the Pool. If there has not been a bona fide request for LNP, there is almost certainly no local competition in their service area. Therefore, the 9000 numbers that would be put aside for Pooling will not produce a number optimization benefit. “LNP capability is already mandated in the areas where number usage is likely to be the highest” and where “the benefits of pooling can potentially affect a large number of areas and consumers.”¹² An expansion of the Pooling requirement to include all carriers in the top 100 MSAs would have a particularly adverse affect on rural carriers and two percent carriers and would impose significant resource burdens on those carriers.

It also should be noted that only carriers operating with common rate centers may Pool with one another. In areas where no competition is present, there are no other carriers with

¹² Report and Order and Further Notice of Proposed Rule Making, CC Docket No. 99-200, 15 FCC Rcd 7574 at 7627 (2000) (“First Report and Order”).

which the incumbent LEC may pool. In such cases, Pooling is a burden without a public benefit. For the reasons set forth above, the FCC should retain its current rule that limits mandatory Pooling to LNP-capable carriers.

Respectfully submitted,

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